

The Honorable Stanley A. Bastian

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

DEMETRIOS VORGIAS,

Plaintiff,

v.

COMMUNITY HEALTH OF CENTRAL
WASHINGTON,
Defendant.

Case No.: 1:21-cv-03013-SAB

**PLAINTIFF'S OBJECTIONS TO
DEFENDANT'S WITNESS
AND EXHIBIT LISTS**

Pursuant to the Court's Order Setting Trial Date and Deadlines (ECF No. 81), Plaintiff submits the following objections to Defendant's Witness and Exhibit Lists.

Plaintiff's objections are based on the disclosures set forth in Defendant's Witness and Exhibit Lists and are not intended to waive Plaintiff's right to limit the scope of any potential testimony at trial. Plaintiff further reserves the right to make additional objections to any witnesses' testimony or to any exhibit at trial, including objections relating to the scope of such testimony, foundation, hearsay, or any other applicable evidentiary objection.

A. OBJECTIONS TO WITNESSES.

Plaintiff generally objects to the proposed testimony of several of Defendant's witnesses as a comparison of Defendant's Initial Disclosures and Defendant's Witness List clearly demonstrate an effort by Defendant to expand the scope of its witnesses' testimony.

More specifically, Federal Rule of Civil Procedure 26(a)(1)(A)(i) states in pertinent part that a party must, without awaiting a discovery request, provide to the other parties:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information- *along with the subjects of that information-* that the disclosing party may use to support its claims, or defenses, unless that use would be solely for impeachment.

Additionally, Federal Rule of Evidence 802 states that hearsay is not admissible unless any of the following provides otherwise:

- a federal statute;
- these rules; or
- other rules prescribed by the Supreme Court.

Following is each witness listed by Defendant, as well as the objectionable subject matter, that Defendant now seeks to expand into the record:

1 1. Demetrios Vorgias- Plaintiff will testify regarding his claims, residency,
2 performance, unlawful/discriminatory/retaliatory termination by Defendant, and
3 damages.

4 2. Dr. Micahlyn Powers-

5 a. Objection to any testimony from this witness regarding the
6 following subjects: “her communications with Plaintiff, her observations of Plaintiff’s
7 skills, ... and qualifications, his performance counseling and discipline, CARED
8 Committee meetings and informed received by CARED related to Plaintiff’s job
9 performance” as those subjects were not identified and disclosed by Defendant. FRCP
10 26(a)(1)(A)(i).

11 b. Plaintiff further objects that any such communications likely
12 constitute hearsay. FRE 802.

13 c. Plaintiff does not object to Dr. Powers’ limited testimony
14 regarding Plaintiff’s residency and performance as those subjects were included in
15 Defendant’s Initial Disclosures.

16 3. Dr. Katina Rue-

17 a. Objection to any testimony from this witness regarding the
18 following subjects: “her communications with and observations of Plaintiff,
19 CAR5ED [sic] Committee meetings, and his separation of employment,” as those
20 subjects were not identified and disclosed by Defendant. FRCP 26(a)(1)(A)(i).

21 b. Plaintiff further objects that any such communications likely
22 constitute hearsay. FRE 802.

23 c. Plaintiff does not object to limited testimony from Dr. Rue
24 regarding Plaintiff’s residency and performance as those subjects were included in
25 Defendant’s Initial Disclosures.

1 4. Dr. Caitlin Hill-

2 a. Objection to any testimony from this witness regarding the
3 following subjects: “her communications with and observations of Plaintiff, CAR5ED
4 [sic] Committee meetings ... and his separation of employment,” as those subjects were
5 not identified and disclosed by Defendant. FRCP 26(a)(1)(A)(i).

6 b. Plaintiff further objects that any such communications likely
7 constitute hearsay. FRE 802.

8 c. Plaintiff does not object to limited testimony from Dr. Hill
9 regarding Plaintiff’s residency and performance.

10 5. Dr. David Bauman-

11 a. Objection to any testimony from this witness regarding the
12 following subjects: “his observations of Plaintiff’s job performance, skills, and
13 qualifications, ... his communications with the Program Director and CARED, and
14 Plaintiff’s separate of employment,” as those subjects were not identified and disclosed
15 by Defendant. FRCP 26(a)(1)(A)(i).

16 b. Plaintiff further objects that any such communications likely
17 constitute hearsay. FRE 802.

18 c. Plaintiff does not object to limited testimony from Dr. Bauman
19 regarding Plaintiff’s residency and performance.

20 6. Dr. Ragina Lancaster-

21 a. Objection to any testimony from this witness regarding the
22 following subjects: “her observations of Plaintiff’s job performance, skills, and
23 qualifications, ... her communications with the Program Director and CARED, and
24 Plaintiff’s separate of employment,” as those subjects were not identified and disclosed
25 by Defendant. FRCP 26(a)(1)(A)(i).

26 b. Plaintiff further objects that any such communications likely
27 constitute hearsay. FRE 802.

28 c. Plaintiff does not object to limited testimony from Dr. Lancaster

1 regarding Plaintiff's residency and performance.

2 7. Laura McClintock-

3 a. Objection to any testimony from this witness regarding the
4 following subjects: "her communications with and observations of Plaintiff, including
5 related to his performance counseling and discipline, CARED Committee meetings, ...
6 Plaintiff's separation of employment, and CHCW accommodations processes and
7 procedures" as those subjects were not identified and disclosed by Defendant. FRCP
8 26(a)(1)(A)(i).

9 b. Plaintiff further objects that any such communications likely
10 constitute hearsay. FRE 802.

11 c. Plaintiff does not object to limited testimony from this
12 witness regarding Plaintiff's residency and performance.

13 8. Dr. Carlin Miller-

14 a. Objection to any testimony from this witness regarding the
15 following subjects: "her communications with and observations of Plaintiff" as those
16 subjects were not identified and disclosed by Defendant. FRCP 26(a)(1)(A)(i).

17 b. Plaintiff further objects that any such communications likely
18 constitute hearsay. FRE 802.

19 c. Plaintiff does not object to limited testimony from Dr. Miller
20 regarding Plaintiff's residency and performance.

21 9. Dr. Joel Pearson-

22 a. Objection to any testimony from this witness regarding the
23 following subjects: "his communications with Plaintiff, his [sic] of Plaintiff's job
24 performance, skills, and qualifications," as those subjects were not identified and
25 disclosed by Defendant. FRCP 26(a)(1)(A)(i).

26 b. Plaintiff further objects that any such communications likely
27 constitute hearsay. FRE 802.

1 c. Plaintiff does not object to limited testimony from Dr. Pearson
2 regarding Plaintiff's residency and performance.

3 10. Dr. Dominick Nguyen-

4 a. Objection to any testimony from this witness regarding the
5 following subjects: "his communications with Plaintiff, his [sic] of Plaintiff's job
6 performance, skills, and qualifications," as those subjects were not identified and
7 disclosed by Defendant. FRCP 26(a)(1)(A)(i).

8 b. Plaintiff further objects that any such communications likely
9 constitute hearsay. FRE 802.

10 c. Plaintiff does not object to limited testimony from Dr. Nguyen
11 regarding Plaintiff's residency and performance.

12 11. Dr. Ravneet Dhaliwal-

13 a. Objection to any testimony from this witness regarding the
14 following subjects: "his communications with Plaintiff, his [sic] of Plaintiff's job
15 performance, skills, and qualifications," as those subjects were not identified and
16 disclosed by Defendant. FRCP 26(a)(1)(A)(i).

17 b. Plaintiff further objects that any such communications likely
18 constitute hearsay. FRE 802.

19 c. Plaintiff does not object to limited testimony from Dr. Dhaliwal regarding
20 Plaintiff's residency and performance.

21 12. Shelley Lewis (Defense Expert)-

22 a. Objection to any testimony from this witness as she has not
23 been properly disclosed pursuant to FRCP 26(a)(2). Ms. Lewis has been disclosed as
24 vocational rehabilitation counselor. She has not been identified or disclosed on the
25 subject of failure to mitigate damages.

26 **B. OBJECTIONS TO EXHIBITS.**

27 Plaintiff's objections to Defendant's Exhibit List are as follows:
28

Ex. No.	Description	Bates	Admit	Auth. Disputed	Auth. & Admiss. Disputed	Objections
200	2016 Resident Handbook	CHCW 1-10				FRE 403; Relevance; Foundation
201	ACGME Program Requirements	CHCW 11-20				FRE 403; Relevance; Foundation; Incomplete
202	Resident Professionalism Agreement and Accountability Policy (4/22/18)	CHCW 258-259				FRE 802 – Hearsay; FRE 403; Relevance; Foundation
203	Standards of Behavior Agreement (6/27/18)	CHCW 189				FRE 802 – Hearsay; FRE 403; Relevance; Foundation
204	October 1, 2017 Demetrios Vorgias Residency Application Materials	CHCW 228, 243, 255, 257				
205	March 27, 2018 Residency Contract in Family Medicine	CHCW 179-183				
206	R 1 FMS Evaluation	CHCW 126-135				FRE 802 – Hearsay
207	EKG Selective Evaluation	CHCW 162				FRE 802 – Hearsay
208	Resident Individual Learning Plan	CHCW 146-156				FRE 802 – Hearsay
209	July 19, 2018 Self Evaluation	CHCW 97-98				FRE 802 – Hearsay
210	September 17, 2018 Email From Joy Gay regarding concerns	CHCW 44				FRE 802 – Hearsay; FRE 403; Misleading
211	October 1, 2018 Email from Tiffany Mark regarding concerns	CHCW 45-46				FRE 802 – Hearsay; FRE 403; Misleading
212	Resident Individual Learning Plan	CHCW 47-50				Relevance
213	CARED Committee Description	VORGAS 39-45				FRE 802 – Hearsay; FRE 403; Misleading
214	October 23, 2018 CARED Meeting regarding recommending placing Vorgias on a Constructive Citation	CHCW 51-52				FRE 802 – Hearsay; FRE 403; Misleading
215	October 23, 2018 New Innovations Evaluation by Dr. Hill	VORGAS 80-83				FRE 802 – Hearsay; FRE 403; Misleading
216	October 24, 2018 Quarterly Review / Constructive Citation	CHCW 102-103				FRE 802 – Hearsay
217	November 4, 2018 Email from Dr. Bauman regarding feedback	CHCW 55-56				FRE 802 – Hearsay
218	November 14, 201 Email from Carlin Miller regarding feedback	CHCW 53-54				FRE 802 – Hearsay
219	2018-2019 Rotation	CHCW 184-186				FRE 802 – Hearsay; FRE 403;

	Comparison					Misleading
1	220	2018 American Board of Family Medicine In Training Examination Performance Report	CHCW 167			FRE 802 – Hearsay; Foundation; Misleading
2						
3	221	January 23, 2019 Consequential Citation by CARED Committee	CHCW 58-60			FRE 802 – Hearsay; FRE 403; Misleading
4						
5	222	January 23, 2019 Quarterly Review	CHCW 163-164			FRE 802 – Hearsay; FRE 403; Misleading
6	223	January 28, 2019 Email from Dr. Hill to faculty regarding Consequential Citation	CHCW 57			FRE 802 – Hearsay; FRE 403; Misleading; Prejudicial
7						
8	224	February 4, 2019 Email from Dr. Moran regarding feedback	CHCW 61-62			FRE 802 – Hearsay; FRE 403; Misleading; Prejudicial
9						
10	225	February 10, 2019 New Innovations Review by Dr. Rue	VORGAS 210-213			FRE 802 – Hearsay; FRE 403; Misleading; Prejudicial
11						
12	226	February 13, 2019 Pre-reading for CARED Meeting	CHCW 66-71			FRE 802 – Hearsay; FRE 403; Misleading
13	227	February 13, 2019 CARED Meeting regarding probation	CHCW 72-75			FRE 802 – Hearsay; FRE 403; Misleading
14						
15	228	CARED to Dr. Vorgias/ Probation	CHCW 91-94			FRE 802 – Hearsay; FRE 403; Misleading
16	229	February 13, 2019 Email From Dr. Lancaster regarding Demetrios' FMS	CHCW 64-65			FRE 802 – Hearsay; FRE 403; Misleading
17						
18	230	February 13, 2019 Email from Dr. Powers "Demetrious Vorgias Change in Schedule"	CHCW 76			FRE 802 – Hearsay; FRE 403; Misleading
19						
20	231	February 15, 2019 Letter from Laura Moss to Dr. Powers	CHCW 77			FRE 802 – Hearsay
21						
22	232	February 26, 2019 CARED Meeting Regarding remaining on Probation	CHCW 165-166			FRE 802 – Hearsay; FRE 403; Misleading
23						
24	233	March 2019 "Clinical Question" emails with Dr. Powers	CHCW 226-227			FRE 802 – Hearsay; FRE 403; Misleading
25						
26	234	April 17, 2019 CARED Meeting regarding status and progress during Probation	CHCW 78-79			FRE 802 – Hearsay; FRE 403; Misleading
27						
28	235	April 19, 2019 Email from Cynthia Morales to Dr. Powers	CHCW 93-94			FRE 802 – Hearsay; FRE 403; Misleading
	236	April 23, 2019 Emails re	CHCW 80			FRE 802 – Hearsay; FRE 403;

	"Vorgias FMS Evaluations"					Misleading
237	April 23, 2019 Email from Papazian re "Vorgias FMS Evaluations"	CHCW 80				FRE 802 – Hearsay; FRE 403; Misleading
238	April 24, 2019 CARED Meeting regarding termination	CHCW 87-88				FRE 802 – Hearsay; FRE 403; Misleading
239	April 24, 2019 Quarterly Review	CHCW 89-92				FRE 802 – Hearsay; FRE 403; Misleading; Foundation
240	April 26, 2019 Email from Dr. Dhaliwal	CHCW 85-86				FRE 802 – Hearsay
241	May 1, 2019 "On the Fly Resident Evaluation" by Dr. Dhaliwal	VORGAS 186				FRE 802 – Hearsay; FRE 403; Misleading; Foundation
242	May 8, 2019 Email from Dr. Powers to Plaintiff	CHCW 95-96				FRE 802 – Hearsay
243	List of jobs Plaintiff to after separation of employment	PLTF 001155				FRE 403; Incomplete
244	2017 Resume	CHCW 261				
245	2021 Resume	PLTF 145-147				
246	November 3, 2020 EEOC Dismissal Notice	VORGAS 254-255				FRE 802 - Hearsay; FRE 403; Misleading; Foundation
247	Shelly Lewis, MA, CRC, CLCP, ADVE/D CV Expert Report dated November 4, 2021	Disclosed on November 5, 2021				FRE 802 – Hearsay; Relevance
248	Shelly Lewis, MA, CRC, CLCP, ACVE/D CV	Disclosed on November 5, 2021				FRE 802 – Hearsay; Relevance

DATED this 15th day of August 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED at Yakima, Washington, this 15th day of August, 2022.

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